REMARKS/ARGUMENTS

The rejection presented in the Office Action dated August 20, 2008, (hereinafter Office Action) has been considered but is believed to be improper. Reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

Applicant respectfully traverses the § 102(b) rejection based upon the teachings of WO 01/57807 to Baldwin (hereinafter "Baldwin") because Baldwin has not been shown to teach or suggest each of the claimed limitations. Specifically, Baldwin fails to teach or suggest deriving a tag type from a decryption method. In contrast, Baldwin teaches that decryption of tag data only results in a determination of whether a tag is authentic or not. The cited portion at page ten merely describes the field decryption and comparison authentication process. However, the determination of whether a tag is authentic or not is not derived from the decryption method, as claimed, since either of Baldwin's authentication processes can determine whether a tag is authentic - the determination is not based on the process used. Moreover, Baldwin would not teach deriving a tag type as claimed since Baldwin is directed to authenticating a tag in a closed system (page 2, lines 6-22), whereas the claimed derivation of a tag type is used for interoperability of tags with multiple readers (page 2, line 13- page 3, line 5). Thus, Baldwin fails to teach or suggest at least deriving a tag type from a decryption method, as claimed. Without a presentation of correspondence to each of the claimed limitations, the § 102(b) rejection is improper.

In order to anticipate a claim, the asserted reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The Federal Circuit also recently held that "Because the hallmark of anticipation is prior invention, the prior art reference—in order to anticipate under 35 U.S.C. § 102—must not only disclose all elements of the claim within the four corners of the document, but must also disclose those elements 'arranged as in the claim.'" (Net Moneyin, Inc. v. Verisign, Inc., --- F.3d ----, 2008 WL 4614511 (Fed. Cir. 2008) quoting Connell v. Sears, Roebuck & Co., 722 F.2d 1542, 1548 (Fed. Cir. 1983)). Therefore, all claim elements, and their limitations, must be found in the prior art

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reference to maintain the rejection based on 35 U.S.C. § 102. Applicant respectfully submits that Baldwin does not teach every element of independent Claims 1, 7, and 11 directed to tag types, in the requisite detail, and therefore fails to anticipate Claims 1, 2, 4, and 7-14.

Also, dependent Claims 2, 4, 8-10, and 12-14 depend from independent Claims 1, 7, and 11, respectively, and also stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Baldwin. While Applicant does not acquiesce to the particular rejection to these dependent claims, the rejection is also improper for the reasons discussed above in connection with the independent claims. These dependent claims include all of the limitations of the independent claims, and any intervening claims, and recite additional features which further distinguish them from the cited reference. Therefore, the rejection of dependent Claims 2, 4, 8-10, and 12-14 is improper. Applicant accordingly requests that the § 102(b) rejection be withdrawn.

However, in an effort to facilitate prosecution and without acquiescing to characterizations of the asserted art, Applicant's claimed subject matter, or to the applications of the asserted art or combinations thereof to Applicant's claimed subject matter, Applicant has amended Claims 1 and 7 to characterize that more than one decryption method may be used to decrypt tag data. Support for these changes may be found in the Specification, for example, in Fig. 4 and the corresponding discussion at page 6, line 27 through page 7, line 23; therefore, the changes do not introduce new matter. In addition to the reasons set forth above, the claims are further believed to be patentable in view of these changes since Baldwin teaches using only one method (while providing two exclusive, alternative options) to authenticate a tag.

In addition, new dependent Claims 15-20 have been added. Support for these claims may be found in the Specification, for example, at page 2, lines 16-24 (Claims 15 and 19) and page 6, line 27 through page 7, line 23 (Claims 16-18 and 20). New, dependent Claims 15-20 each depend from Claims 1 and 7; therefore, each is also believed to be patentable over the asserted reference for the reasons set forth above in connection with these independent claims.

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Authorization is given to charge Deposit Account No. 50-3581 (NKO.064.WUS) any necessary fees for this filing. If the Examiner believes it necessary or helpful, the Examiner is invited to contact the undersigned attorney to discuss any issues related to this case.

Respectfully submitted,

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